

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMERICAN MUSIC THEATER	:	
FESTIVAL, INC., and JOINT	:	
THEATER CENTER, LLC,	:	
Plaintiffs,	:	CIVIL ACTION
v.	:	
	:	NO. 10-cv-00638
TD BANK, N.A.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 16th day of February, 2011, upon consideration of Defendant TD Bank, N.A.'s Motion to Dismiss Plaintiffs' Complaint and to Strike All References to Settlement and Mediation Communications (ECF No. 6), and all documents filed in support thereof and in opposition thereto, it is hereby ORDERED as follows:

1. Defendant's Motion to Dismiss is CONVERTED to a Motion for Summary Judgment under Rule 56 with regard to Defendant's preclusion defenses. Defendant shall file its brief and any supplemental evidence within thirty (30) days of the date of this order. Plaintiffs shall have twenty-one (21) days thereafter to respond.
2. Ruling on the remainder of the Motion to Dismiss is reserved pending resolution of the preclusion issues.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.